

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Christopher Josey, a/k/a Christopher)	
Josey Choice,)	C/A No. 0:07-1657-MBS
)	
Plaintiff,)	
)	
vs.)	
)	
Sumter County c/o William Noonan;)	
Lee County c/o Jimmy Lacoste; Simon)	O R D E R
Major, Director SLRDC; Dr. Bush, Medical)	
Director; Southern Health Partners,)	
c/o Phil Mack, Jackie Richardson,)	
)	
Defendants.)	
_____)	

At the time of the underlying events, Plaintiff Christopher A. Josey was a pretrial detainee at the Sumter Lee Regional Detention Center in Sumter, South Carolina. Plaintiff, proceeding pro se, filed a complaint on June 14, 2007. The complaint also was signed by numerous other detainees, and alleged that their constitutional rights had been violated in various respects. Plaintiff filed an amended complaint on his own behalf on July 3, 2007.

This matter is before the court on motion for summary judgment filed by Defendants Bush and Southern Health Partners on September 17, 2007. On September 18, 2007, an order was issued pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), advising Plaintiff of the summary judgment procedures and the possible consequences if he failed to respond adequately. Also before the court is a motion for summary judgment filed by Defendant Lee County on October 10, 2007. A second Roseboro order was issued on October 11, 2007. Also before the court is a motion for summary judgment filed by Sumter County and Simon Major on November 19, 2007. A third Roseboro order was issued on November 20, 2007. Plaintiff filed no response to any motion for summary judgment.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pretrial handling. On February 29, 2008, the Magistrate Judge issued a Report and Recommendation in which he recommended that the within action be dismissed because Plaintiff had not exhausted his administrative remedies as required by 42 U.S.C. § 1997e(a).

On March 10, 2008, the envelope containing Plaintiff's copy of the Report and Recommendation was returned to the Office of the Clerk of Court marked "Unknown at this Address, Return to Sender, Not Deliverable as Addressed, Unable to Forward." On March 26, 2008, Plaintiff provided the court with a change of address to Kirkland Correctional Institution in Columbia, South Carolina. The Clerk's Office mailed the Report and Recommendation to Plaintiff at the new address. However, on April 4, 2008, the envelope containing Plaintiff's copy of the Report and Recommendation was returned to the Clerk's Office. Thereafter, based on information from the South Carolina Department of Correction's website, a copy of the Report and Recommendation was sent to Plaintiff at Allendale Correctional Institution in Fairfax, South Carolina, on April 11, 2008. The envelope sent to Allendale Correctional Institution has not been returned to the Clerk's Office. Plaintiff has filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C.

§ 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The within action is dismissed without prejudice because Plaintiff has not exhausted his administrative remedies as required by 42 U.S.C. § 1997e(a).

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

May 12, 2008

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.